



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5465

Introduced 2/15/2012, by Rep. Dennis M. Reboletti

SYNOPSIS AS INTRODUCED:

725 ILCS 150/3.5

725 ILCS 150/5

from Ch. 56 1/2, par. 1675

Amends the Drug Asset Forfeiture Procedure Act. Provides that within 15 business days of a seizure, the State's Attorney shall issue a notice to all known interest holders that a forfeiture proceeding, and a right to a preliminary review, shall be instituted in accordance with the Act. Provides that upon written request made by the property owner or interest holder, the State shall seek a preliminary determination from the circuit court as to whether there is probable cause that the property may be subject to forfeiture. Provides that the notification to the State's Attorney of the property seized and its estimated value shall only be perfected by the delivery of the Illinois State Police approved form 4-64. Effective immediately.

LRB097 19806 RLC 65076 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Drug Asset Forfeiture Procedure Act is
5 amended by changing Sections 3.5 and 5 as follows:

6 (725 ILCS 150/3.5)

7 Sec. 3.5. Preliminary Review.

8 (a) Within 15 business days of a seizure, the State's
9 Attorney shall issue a notice to all known interest holders
10 that a forfeiture proceeding, and a right to a preliminary
11 review, shall be instituted in accordance with this Act. Upon
12 written request made by the property owner or interest holder,
13 the State shall seek a preliminary determination from the
14 circuit court as to whether there is probable cause that the
15 property may be subject to forfeiture. The request shall be
16 made by serving the State's Attorney's Office in the county of
17 seizure, within 15 business days of the seizure, in person or
18 by certified mail return receipt requested, a demand for
19 preliminary determination. If the notice is served upon the
20 State's Attorney, then the State's Attorney shall follow the
21 procedures outlined in the statute as written. ~~Within 14 days~~
22 ~~of the seizure, the State shall seek a preliminary~~
23 ~~determination from the circuit court as to whether there is~~

1 ~~probable cause that the property may be subject to forfeiture.~~

2 (b) The rules of evidence shall not apply to any proceeding
3 conducted under this Section.

4 (c) The court may conduct the review under subsection (a)
5 simultaneously with a proceeding pursuant to Section 109-1 of
6 the Code of Criminal Procedure of 1963 for a related criminal
7 offense if a prosecution is commenced by information or
8 complaint.

9 (d) The court may accept a finding of probable cause at a
10 preliminary hearing following the filing of an information or
11 complaint charging a related criminal offense or following the
12 return of indictment by a grand jury charging the related
13 offense as sufficient evidence of probable cause as required
14 under subsection (a).

15 (e) Upon making a finding of probable cause as required
16 under this Section, and after taking into account the
17 respective interests of all known claimants to the property
18 including the State, the circuit court shall enter a
19 restraining order or injunction, or take other appropriate
20 action, as necessary to ensure that the property is not removed
21 from the court's jurisdiction and is not concealed, destroyed,
22 or otherwise disposed of by the property owner or interest
23 holder before a forfeiture hearing is conducted.

24 (Source: P.A. 97-544, eff. 1-1-12.)

25 (725 ILCS 150/5) (from Ch. 56 1/2, par. 1675)

1 Sec. 5. Notice to State's Attorney. The law enforcement
2 agency seizing property for forfeiture under the Illinois
3 Controlled Substances Act, the Cannabis Control Act, or the
4 Methamphetamine Control and Community Protection Act shall,
5 within 52 days of seizure, notify the State's Attorney for the
6 county in which an act or omission giving rise to the
7 forfeiture occurred or in which the property was seized of the
8 seizure of the property and the facts and circumstances giving
9 rise to the seizure and shall provide the State's Attorney with
10 the inventory of the property and its estimated value. The
11 notification to the State's Attorney shall only be perfected by
12 the delivery of the Illinois State Police approved form 4-64.

13 When the property seized for forfeiture is a vehicle, the law
14 enforcement agency seizing the property shall immediately
15 notify the Secretary of State that forfeiture proceedings are
16 pending regarding such vehicle.

17 (Source: P.A. 94-556, eff. 9-11-05.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.